IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1131 OF 2004

IN

REVISION APPLICATION NO.564 OF 2004.

Aditya R.Parikh .. Appellant

vs.

S.J.Surve & Ors .. Respondents.

Miss Hemangi Prabhu, Advocate for the Appellant.

Mr.Rahul Chitnis i/b. M/s. V. Deshpande & Co., Advocate for the Respondent.

CORAM : S.R.SATHE, J.

DATED : 28th December, 2004.

P.C. :

1. Heard the learned Advocate for the appellant. It is submitted that through mistake A.O. has been filed against the impugned order, but in fact as per the rules appeal should have been filed. Hence request is made that the appellant be allowed to carry out the amendment.

2. Request granted. The appellant to carry out the necessary amendment within 14 days.

3. So far as the interim relief is concerned, from the perusal of the record it is very clear that certificate under section 101 of Maharashtra Co-operative Societies Act for a sum of Rs.1,33,68,850/- has been obtained by the respondent no.2 long back and on the basis of the same movable property in the premises of respondent nos.5 and 6 has been attached on 21.10.2004 under panchanama

4. Now it is the say of the appellant that the property that has been attached is owned by the appellant. In fact, it appears that the appellant is the son of the guarantor respondent Nos.5 & 6 and is residing jointly in the house which is admittedly taken on lease by the guarantor. As it is, there is nothing on record to indicate that the property which has been attached under panchanama belongs to the appellant. Respondent has stated on affidavit that at the time of attachment appellant did not

object. Moreover, if really he had any objection he should have taken recourse to specific alternate remedy provided under sub rule 19 of Rule 107 of Maharashtra Co-operative Societies Rules. Instead of that with a view to create hurdle in recovery he is seeking status quo. There are no valid reasons to grant any interim relief. Granting such interim relief at this stage would delay the recovery of huge dues of the Bank and would amount allowing the party to abuse the process of law. Hence interim relief rejected.

. Parties to act on the authenticated copy of this order.

(S.R.Sathe, J.)